

<b>UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY</b>	
<b>RAS Citron, LLC</b> 130 Clinton Road, Suite 202 Fairfield, NJ 07004 Telephone Number 973-575-0707 Attorneys For Secured Creditor  Laura Egerman, Esq. (LE-8250 )	CASE NO.: 18-33285-CMG  CHAPTER 13  <b>Objection to Confirmation of Debtors' Chapter 13 Plan</b>
<b>In Re:</b>  <b>Larry J. Kushner and Jacqueline Kushner,</b>  <b>Debtors.</b>	

**OBJECTION TO CONFIRMATION OF DEBTORS' CHAPTER 13 PLAN**

Ocwen Loan Servicing, LLC as servicer for U.S. Bank National Association, successor in interest to Bank of America, National Association, successor by merger to LaSalle National Association as trustee for GSAMP Trust 2007-NC1 Mortgage Pass-Through Certificates, Series 2007-NC1 ("Secured Creditor"), by and through its undersigned counsel, objects to confirmation of Debtors; Modified Chapter 13 Plan (DE # 68), and states as follows:

1. Debtors, Larry J. Kushner and Jacqueline Kushner (the "Debtors"), filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code on November 27, 2018.
2. Secured Creditor holds a security interest in the Debtors' real property located at 10845 Lake Wynds Court, Boynton Beach, FL 33437, by virtue of a Mortgage recorded on September 14, 2006 in Book 20849, at Page 1805 of the Public Records of Palm Beach County, FL. Said Mortgage secures a Note in the amount of \$500,000.00.
3. The Debtors filed a Modified Chapter 13 Plan on August 5, 2019.
4. The Plan proposes to satisfy Secured Creditor's claim by paying \$310,000.00. Secured Creditor disputes this valuation. Until a final determination on valuation occurs, it would be premature to consider confirming Debtors' Plan.

5. The Plan fails to proposes for any interest rate to assure that property distributed to Secured Creditor under the plan will have a value, as of the effective date of the plan that is not less than the allowed amount of such claim.

6. In *Till v. SCS Credit Corp.*, 541 U.S. 465, 124 S.Ct. 1951(2004), the U.S. Supreme Court addressed the appropriate cram down interest rate under 11 U.S.C. § 1325(a)(5)(B)(ii). *Till* adopts the “formula approach,” which looks to the national prime rate, as reported daily in the press, and adds and appropriate “risk adjustment.” Although *Till* does not specify what the risk adjustment should be, it states that courts generally approve adjustments of 1-3%. Accordingly, Secured Creditor maintains that, lacking evidence to the contrary, a risk adjustment of 2% is reasonable.

7. The prime rate, as published in the Wall Street Journal, is currently 5.25%. Accordingly, Secured Creditor maintains the Court should not approve a cram down interest rate less than 7.25%.

8. The Plan does not appear feasible due to inadequate treatment of Secured Creditor’s claim. Thus, the plan violates the provisions of 11 U.S.C. § 1325(a)(3) and cannot be confirmed.

**WHEREFORE**, Secured Creditor respectfully requests this Court sustain the objections stated herein and deny confirmation of Debtors’ Plan, and for such other and further relief as the Court may deem just and proper.

RAS Citron, LLC  
Attorney for Secured Creditor  
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By: /s/Laura Egerman  
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<b>RAS Citron, LLC</b> 130 Clinton Road, Suite 202 Fairfield, NJ 07004 Telephone Number 973-575-0707 Attorneys For Secured Creditor  Laura Egerman, Esq. (LE-8250)	CASE NO.: 18-33285-CMG  CHAPTER 13  <b>Objection to Confirmation of Debtors' Chapter 13 Plan</b>
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**CERTIFICATION OF SERVICE**

1. I, Laura Egerman, Esq., represent Ocwen Loan Servicing, LLC as servicer for U.S. Bank National Association, successor in interest to Bank of America, National Association, successor by merger to LaSalle National Association as trustee for GSAMP Trust 2007-NC1 Mortgage Pass-Through Certificates, Series 2007-NC1 in this matter.
2. On September 3, 2019, I caused a copy of the following pleadings and/or documents to be sent to the parties listed in the chart below: Objection to Confirmation of Debtor's Modified Chapter 13 Plan
3. I certify under penalty of perjury that the above documents were sent using the mode of service indicated.

September 3, 2019

RAS Citron, LLC  
Attorney for Secured Creditor  
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Fairfield, NJ 07004  
Telephone Number 973-575-0707

By: /s/Laura Egerman  
Laura Egerman, Esquire  
NJ Bar Number LE-8250  
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<u>Name and Address of Party Served</u>	<u>Relationship of Party to the Case</u>	<u>Mode of Service</u>
Larry J. Kushner 731 Greens Avenue Long Branch, NJ 07740  Jacqueline Kushner 731 Greens Avenue Long Branch, NJ 07740	Debtors	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
Stanley Spector The Law Office of Stanley Spector PO Box 2282 Ocean, NJ 07712	Debtors' Attorney	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
Albert Russo Standing Chapter 13 Trustee CN 4853 Trenton, NJ 08650-4853	Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
U.S. Trustee US Dept of Justice Office of the US Trustee One Newark Center Ste 2100 Newark, NJ 07102	U.S. Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)